



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: The Gibson Hart Company

File: B-232259

Date: November 29, 1988

DIGEST

Protester has not shown that the agency acted unreasonably in excluding its proposal from the competitive range based on a technical evaluation which found significant deficiencies in three of the five areas listed for evaluation.

DECISION

The Gibson Hart Company protests the award of a contract to Nationwide Boilers, Inc. under request for proposals (RFP) No. N62578-87-R-7022, issued by the Naval Facilities Engineering Command for a firm-fixed-price contract for the overhaul of mobile steam generating and water softening plants. The protester objects to the agency's decision to exclude its proposal from the competitive range.

We deny the protest.

The RFP was issued on October 30, 1987. Offerors were required to submit two separate proposal volumes--one covering technical and management requirements and one addressing price. These were to be weighted equally in the final award decision. The RFP provided that the technical and management proposal would be evaluated in accordance with the factors listed below together with their relative weights:

Technical Capabilities	60%
Management and Staffing Capabilities	10%
Company Experience	10%
Facilities and Equipment	10%
Financial Responsibility	10%

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Offerors were advised that, in order to be determined "acceptable" overall, an offer would have to be found acceptable as to each listed factor. The RFP contained detailed instructions concerning the areas to be addressed and specifically required offerors to supply information and documentation in sufficient detail to support their proposals. Finally, offerors were advised that failure to conform to the RFP's requirements could result in proposal rejection.

Following several amendments, the RFP closed on January 4, 1988. Initial proposals were received from Gibson, Nationwide and Propulsion Controls Engineering. Technical evaluations were conducted and the evaluators reported their results to the source selection board (SSB) on February 3. As a result of the evaluation, the offerors received the following technical and management scores:

Factor	Propulsion	Nationwide	Gibson
Technical Capabilities	53.6	41.1	11.7
Management and Staffing	9.0	7.2	2.1
Company Experience	9.3	8.3	2.1
Facilities and Equipment	7.8	8.1	0.0
Financial Responsibility	8.7	8.3	9.0
Total Point Scores	88.4	73.0	24.8

Propulsion and Nationwide were rated acceptable overall. Although the evaluators rated Gibson unacceptable, they noted a potential for acceptability if the proposal were to be supplemented in response to numerous questions they had prepared for possible negotiations. Because this possibility had been raised, the SSB requested a briefing on the protester's proposal. As a result of that briefing and the SSB's own review of the evaluators' scoring of Gibson's proposal, the SSB concluded that the technical deficiencies were so extensive that correction to achieve an acceptable rating would require "a complete in-depth reproposal." In this regard, the SSB concluded that Gibson's proposal was unacceptable under three of the evaluation factors; technical capabilities, company experience, and facilities and equipment. The SSB also considered Gibson's technical scores in conjunction with its low evaluated price and determined that the protester still had no reasonable chance of receiving an award. Accordingly, the SSB eliminated Gibson from the competitive range.

On March 10, Gibson was informed of the SSB's decision but was provided no details as to why its proposal was rejected. Following the evaluation of best and final offers from Nationwide and Propulsion, award was made on July 15. As

requested, Gibson was debriefed on July 28, and this protest was filed 10 working days later on August 11. The Navy argues that the protest is untimely because it was filed approximately 5 months after Gibson learned that its proposal had been rejected. The record shows that the agency made no attempt to explain to Gibson the reasons why its proposal was rejected until the debriefing. Since the protester first learned of the reasons for its rejection at the July 28 debriefing and protested within 10 days of that time, our timeliness requirements are satisfied. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(3) (1988); ILC Dover, Inc., B-227839.2, Nov. 9, 1987, 67 Comp. Gen. ___, 87-2 CPD ¶ 464.

The protester raises three principal arguments in support of its position. First, Gibson alleges that the evaluators were simply incorrect with respect to some of the deficiencies they found. Next, the protester argues that certain of the evaluators' findings, while concededly valid, were actually inconsequential and involved deficiencies which should have been corrected during discussions. Finally, the protester alleges that some of the deficiencies which were cited as grounds for rejecting its proposal were identical to deficiencies in Nationwide's proposal which that offeror was permitted to correct during discussions.

It is not the function of our Office to evaluate proposals de novo or to resolve disputes over the scoring of proposals. Rather, we will examine an agency's evaluation and competitive range determination only to insure that they were reasonable and consistent with the stated evaluation criteria. The determination of the relative merits of a proposal is primarily a matter of administrative discretion which we will not disturb unless it is shown to be arbitrary. Wellington Associates, Inc., B-228168.2, Jan. 28, 1988, 88-1 CPD ¶ 85. Moreover, the protester must clearly establish that an evaluation was unreasonable. This is not accomplished by the protester's mere disagreement with the agency's judgment. Systems & Processes Engineering Corp., B-232100, Nov. 15, 1988, 88-2 CPD ¶ ____.

For the reasons set forth below, we find that the protester has failed to show that the Navy acted unreasonably in evaluating its technical proposal and in eliminating it from the competitive range.

At the outset, we note that the protester's position is based on a list of approximately 24 deficiencies which was prepared by the Navy for the purpose of the July 28 debriefing. The list does not purport to describe or categorize the deficiencies by degree of seriousness or

by degree of importance to the competitive range determination. Our analysis does not concern each of the 24 listed deficiencies--some of which appear to be inconsequential--but primarily focuses on the principal deficiencies cited by agency contracting officials in the evaluation documents as significant to the rejection of Gibson's proposal. The substance of each of these deficiencies was included in the Navy's debriefing list.^{1/}

As stated in the SSB findings, a major contributing factor to Gibson's unacceptable rating was its failure to provide critical information as required by the RFP. Among the significant weaknesses listed by the SSB were: Gibson's failure to provide a detailed schedule of work efforts, known as a Critical Path Network (CPN); its failure to provide a quality assurance plan in conformance with the requirements of specification MIL-I-45208A; a lack of meaningful descriptive data with regard to the adequacy of its production facilities; and the protester's lack of substantiating information concerning company experience which was directly relevant to the work called for by the RFP. These deficiencies were the primary reasons that Gibson's proposal was determined unacceptable under the technical capabilities, company experience, and facilities and equipment factors.

CPN

The RFP required offerors to provide a time-based CPN to illustrate each key element and phase of the work effort under the solicitation. Although Gibson states that the protester provided an in-depth CPN network from a previous project with its proposal to illustrate its capability of meeting the RFP requirement, it now concedes that such a document was not, in fact, submitted. All that the proposal contained with respect to the CPN was an unsupported promise to comply through the use of a subcontractor and that subcontractor's advertisement which appears to depict a schedule for the construction of an office building. Since the protester has, in essence, admitted that it did not meet this RFP requirement, we are provided no basis upon which to question the agency's technical evaluation in this regard. See GM Industries, Inc., B-231998, Oct. 25, 1988, 88-2 CPD ¶ ____.

Gibson also criticizes the agency's treatment of Nationwide's proposal with respect to whether that firm adequately

^{1/} The significant factors in the evaluation were also listed in the agency's report in response to the protest.

met the CPN requirement. While, in essence, conceding that the awardee did supply a document which contained relevant RFP scheduling dates, the protester suggests that it was rudimentary at best and notes that Nationwide refused to amend its CPN during negotiations when asked to do so by the agency. The evaluation documents concerning Nationwide's proposal do not indicate any specific concern on the part of the agency with respect to the awardee's CPN per se; the evaluators did, however, express concern about a lack of attention devoted to the interrelationship of data to hardware production. Accordingly, during discussions, Nationwide was asked to "[e]xplain the relationship of engineering work, technical documentation, hardware validation and production testing." Subsidiary to this request was a parenthetical suggestion that the firm's CPN be revised. Nationwide did respond to the Navy's request and, while it did not specifically revise its CPN, the firm pointed out that the CPN it had previously submitted included scheduling dates for the work elements in question. The Navy apparently accepted the awardee's explanation. While it is clear that the protester does not view Nationwide's response as adequate, we have no basis upon which to conclude that the Navy's decision to accept this aspect of the awardee's proposal was without a rational basis.

MIL-I-45208A

The RFP required a detailed description of the offeror's proposed quality assurance program. Offerors had to demonstrate, among other things, that the quality assurance record system portion of the program was in accordance with specification MIL-I-45208A. If such a program had not been implemented in the past, the RFP required the offeror to describe the system it had as it related to the specification. The evaluators found that Gibson's proposed program did not meet the RFP requirements and stated that the protester had not shown that the system it did describe could be made to meet the specification requirements. At the debriefing, Gibson was informed that its system appeared appropriate for a large construction project with few parallels to the type of MIL-I-45208A system applicable to the scope of work described in the RFP--i.e., the overhaul of small equipment in the contractor's own facility. Gibson does not dispute these findings. Rather, it argues that Nationwide was permitted to correct similar deficiencies with respect to its system through discussions. However, our review of Nationwide's proposal indicates that, although it did not have a MIL-I-45208A system in place, it made reference to a system the firm had previously used with Navy approval which met the intent of the specification under a contract of similar size and scope

to the one contemplated by the RFP. Thus, despite any superficial similarity between the language used to describe areas in need of clarification in Nationwide's proposal and the language used to describe deficiencies in Gibson's at the debriefing, the protester has not demonstrated that the Navy acted unreasonably in distinguishing between the two proposals and in downgrading Gibson's proposal in this area.

ADEQUACY OF FACILITIES

The RFP required offerors to describe their production facilities and areas in detail including location, intended use, size and relative position. Gibson was faulted for providing no details as to the areas of its plant to be used for secure storage and to perform the other principal functions called for under the RFP--disassembly, repair, reassembly, painting and testing. An examination of its proposal in this regard indicates that it provided a rather simplified sketch of its fabrication shop from which it is difficult, if not impossible, to determine the adequacy of the space to be devoted to each of the principal contract work functions. The protester argues that we should regard the deficiencies found in its proposal to be equatable to problems in the awardee's proposal solely on the basis that Nationwide was asked during discussions what area of its plant would be designated for secure storage and how the firm planned to maintain security. Further, the protester argues in essence that it did indeed provide sufficient information in this areas.

First, we do not agree that the fact that the agency sought additional detail from the awardee in this area necessarily indicates that the problems the evaluators found in the two proposals were of equal significance. Also, we have reviewed Gibson's proposal and the evaluators' comments, and we do not believe that the evaluators' conclusion that Gibson's proposal contained insufficient information to assess its facility was unreasonable.


COMPANY EXPERIENCE

The RFP required offerors to demonstrate their expertise in handling government contracts of similar size and complexity, including the overhaul of steam generating plants as called for in the solicitation. While Gibson's proposal made general reference to the experience of a proposed joint venturer, no supporting details such as the contract number and type, etc. were provided as required; moreover, the experience listed for Gibson itself does not indicate any contracts for the overhaul of small equipment.

While it is true, as the protester argues, that it did submit information regarding the experience of Gibson's joint venturer and a proposed subcontractor, nevertheless, that information did not provide the detail required concerning past government contracts. Further, to the extent such detailed information was submitted on Gibson itself, it did not pertain to the overhaul of mobile steam plants. We are unable to find that the agency evaluators acted unreasonably in downgrading Gibson's proposal on this basis.

With regard to the remaining disputes concerning additional deficiencies found by the Navy and discussed at the July 28 debriefing, the evaluation record indicates that they were not significant factors in the agency's competitive range determination and, therefore, even if we were to agree with the protester, they would not have altered its determination. Accordingly, we conclude that Gibson has not shown that the Navy acted unreasonably in excluding its proposal from further consideration.

The protest is denied.

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General Counsel